

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
YSMAEL MALDONADO,

Plaintiff,

-against-

CORIZON HEALTH, INC., RUEL HUFFSTEAD, DR.  
FRANK FLORES, DR. PETER WACHTEL, DR. RAJA  
SABBAGH, CURT WALKER, LYNN DEVIVO, ROSE  
ANIM, DR. JEAN RICHARD, IDA BROWN, DR. ASHA  
KUMAR, DR. MAUNG MAUNGOO, DANIEL  
ASHITEY, AND DR. MORSI SHAABAN,

Defendants.  
-----X

15-cv-6619-PKC-LB

**ANSWER TO AMENDED  
COMPLAINT**

**TRIAL BY JURY  
DEMANDED**

Defendant, MAUNG MAUNGOO, M.D., s/h/a “DR. MAUNG MAUNGOO” by  
his attorneys, HEIDELL, PITTONI, MURPHY & BACH, LLP, upon information and belief,  
answers the Amended Complaint herein as follows:

**AS AND TO THE SECTION DESIGNATED “PRELIMINARY STATEMENT”**

FIRST: Denies the allegations set forth in paragraphs “1” and “3” through  
“9” as it pertains to the answering defendant and otherwise begs leave to refer all questions of  
law to the court and all questions of fact to the trier thereof.

SECOND: Denies knowledge and information as to the allegations set forth in  
paragraph “2” and otherwise begs leave to refer all questions of law to the court and all questions  
of fact to the trier thereof.

**AS AND TO THE SECTION DESIGNATED “THE PARTIES”**

THIRD: Denies knowledge or information sufficient to form a belief as to  
the allegations contained in the paragraph of the complaint designated “10” through “21” and

“23” through “24” and otherwise begs leave to refer all questions of law to the court and all questions of fact to the trier thereof.

FOURTH: Denies the allegations contained in the paragraph of the complaint designated “22” except admits that at certain times not specifically set forth in the complaint, MAUNG MAUNGOO, M.D., was and still is a physician duly licensed to practice medicine in the State of New York and otherwise begs leave to refer all questions of law to the court and all questions of fact to the trier thereof.

**AS AND TO THE SECTION DESIGNATED “JURISDICTION AND VENUE”**

FIFTH: Denies the allegations contained in the paragraphs of the complaint designated “25” through “27” and otherwise begs leave to refer all questions of law to the court and all questions of fact to the trier thereof.

**AS AND TO THE SECTION DESIGNATED “STATEMENT OF FACTS”**

SIXTH: Denies knowledge or information sufficient to form a belief as to the allegations contained in the paragraphs of the complaint designated “28” through “44” and otherwise begs leave to refer all questions of law to the court and all questions of fact to the trier thereof.

SEVENTH: Denies the allegations contained in the paragraphs of the complaint designated “45” through “46” insofar as the allegations pertain to the answering defendant, and otherwise begs leave to refer all questions of law to the court and all questions of fact to the trier thereof.

EIGHTH: Denies knowledge or information sufficient to form a belief as to the allegations contained in the paragraphs of the complaint designated “47” through “49” and

otherwise begs leave to refer all questions of law to the court and all questions of fact to the trier thereof.

NINTH: Denies the allegations contained in the paragraphs of the complaint designated “50” through “58” insofar as the allegations pertain to the answering defendant, and otherwise begs leave to refer all questions of law to the court and all questions of fact to the trier thereof.

TENTH: Denies knowledge or information sufficient to form a belief as to the allegations contained in the paragraphs of the complaint designated “59”, “68”, “71”, and “76” through “78” and otherwise begs leave to refer all questions of law to the court and all questions of fact to the trier thereof.

ELEVENTH: Denies the allegations contained in the paragraphs of the complaint designated “60” through “67”, “69” through “70”, “72” through “75”, and “79” through “82” insofar as the allegations pertain to the answering defendant and otherwise begs leave to refer all questions of law to the court and all questions of fact to the trier thereof.

TWELFTH: Denies the allegations contained in the paragraph of the complaint designated “83” through “84” and “86” through “94” insofar as the allegations pertain to the answering defendant and otherwise begs leave to refer all questions of law to the court and all questions of fact to the trier thereof.

THIRTEENTH: Denies knowledge or information sufficient to form a belief as to the allegations contained in the paragraphs of the complaint designated “85”, and “95” through “114”.

**AS AND TO THE SECTION DESIGNATED  
“FIRST CLAIM PURSUANT TO 42 U.S.C. §1983”**

FOURTEENTH: Answering the paragraph of the complaint designated “115” defendant repeats and realleges each and every denial and admission in answer to the paragraphs of the complaint designated “1” through “114” with the same force and effect as if herein set forth at length.

FIFTEENTH: Denies the allegations contained in the paragraphs of the complaint designated “116” through “118” insofar as the allegations pertain to the answering defendant and otherwise begs leave to refer all questions of law to the court and all questions of fact to the trier thereof.

**AS AND TO THE SECTION DESIGNATED “SECOND CLAIM FOR RELIEF”**

SIXTEENTH: Answering the paragraph of the complaint designated “119” defendant repeats and realleges each and every denial and admission in answer to the paragraphs of the complaint designated “1” through “118” with the same force and effect as if herein set forth at length.

SEVENTEENTH: Denies knowledge or information sufficient to form a belief as to the allegations contained in the paragraphs of the complaint designated “120” through “122”, and otherwise begs leave to refer all questions of law to the court and all questions of fact to the trier thereof.

EIGHTEENTH: Denies the allegations contained in the paragraph of the complaint designated “123” through “126” insofar as the allegations pertain to the answering defendant and otherwise begs leave to refer all questions of law to the court and all questions of fact to the trier thereof

**AS AND TO THE SECTION DESIGNATED “THIRD CLAIM FOR RELIEF”**

NINETEENTH: Answering the paragraph of the complaint designated “127” defendant repeats and realleges each and every denial and admission in answer to the paragraphs of the complaint designated “1” through “126” with the same force and effect as if herein set forth at length.

TWENTIETH: Denies knowledge or information sufficient to form a belief as to the allegations contained in the paragraphs of the complaint designated “128”.

TWENTY-FIRST: Denies the allegations contained in the paragraphs of the complaint designated “129” through “136”, and otherwise begs leave to refer all questions of law to the court and all questions of fact to the trier thereof.

**FOR A FIRST DEFENSE**

TWENTY-SECOND: That whatever damages may have been sustained at the time and place alleged in the complaint by plaintiff were caused, in whole or in part, by the culpable conduct of plaintiff and without any negligence on the part of defendant. Damages, if any, are to be diminished proportionally to the culpable conduct of the plaintiff.

**FOR A SECOND DEFENSE**

TWENTY-THIRD: The court does not have jurisdiction of the person of the defendant because defendant was not properly served with a copy of the Third Amended Complaint.

**FOR A THIRD DEFENSE**

TWENTY-FOURTH: That the equitable share of liability, if any, of defendant MAUNG MAUNGOO, M.D., shall be determined pursuant to the provisions of Article 16 of the CPLR.

**FOR A FOURTH DEFENSE**

TWENTY-FIFTH: That one or more of the causes of action in the complaint fail to state a cause of action upon which relief may be granted.

**FOR A FIFTH DEFENSE**

TWENTY-SIXTH: That plaintiff has not met the conditions precedent to the commencement of this action as required by law.

**FOR AN SIXTH DEFENSE**

TWENTY-SEVENTH: This action is barred or defendant is entitled to a set-off against any award herein as plaintiff has previously recovered sums for all or part of the damages claimed herein.

**FOR A SEVENTH DEFENSE**

TWENTY-EIGHTH: Plaintiff has failed to mitigate his alleged damages claimed herein.

**FOR A EIGHTH DEFENSE**

TWENTY-NINTH: The amount of alleged damages claimed by plaintiff should be reduced pursuant to CPLR §4545 to the extent of any collateral source benefits, remuneration or compensation received.

**FOR AN NINTH DEFENSE**

THIRTIETH: That the occurrence alleged in plaintiff's amended complaint was caused, contributed to and brought about, in whole or in part, by the conduct of persons over whom this defendant exercised no supervision or control, including the plaintiff, such conduct amounting to contributory negligence, and the damages and injuries otherwise recoverable by plaintiff, if any, should be diminished in proportion to which such person(s)'

conduct bears to the conduct which caused decedent's injuries and damages, if any, pursuant to the decisional and statutory laws of the State of New York and the United States in such cases made and provided.

**FOR A TENTH DEFENSE**

THIRTY-FIRST: That this defendant alleges and states that there were intervening and superseding acts and occurrences over which it had no control and which caused any claimed injuries of plaintiff.

**FOR A ELEVENTH DEFENSE**

THIRTY-SECOND: That this defendant reserves the right to amend its answers and/or affirmative defenses that may be determined applicable in the future by discovery in this matter.

**FOR A TWELFTH DEFENSE**


THIRTY-THIRD: That this defendant denies any and all allegations of plaintiff's complaint not specifically admitted herein.

WHEREFORE, defendant MAUNG MAUNGOO, M.D. demands judgment dismissing the Amended Complaint, together with the costs and disbursements of this action.

Dated: New York, New York  
November 23, 2016

Respectfully Submitted,

HEIDELL, PITTONI, MURPHY & BACH, LLP

By:   
\_\_\_\_\_  
ANA MARIA VIZZO (AMV 5647)  
*Attorneys for Defendant*  
MAUNG MAUNGOO, M.D., s/h/a "DR.  
MAUNG MAUNGOO"  
99 Park Avenue  
New York, New York 10016  
Tel: (212) 286-8585  
Fax: (212) 490-8966  
avizzo@hpmb.com

TO: Mauricio A. España  
John D. Biancamano  
Dechert LLP  
Attorneys for Plaintiff  
1095 Avenue of the Americas  
New York, New York 10036  
[mauricio.espana@dechert.com](mailto:mauricio.espana@dechert.com)  
[john.biancamano@dechert.com](mailto:john.biancamano@dechert.com)  
Ph: (212) 698-3500  
Fax: (212) 698-3599